

**TRANSIT SERVICE SPEED AND RELIABILITY PARTNERSHIP AGREEMENT
BY AND BETWEEN
KING COUNTY
AND
XXX (SERVICE PARTNER)**

THIS TRANSIT SERVICE SPEED AND RELIABILITY PARTNERSHIP AGREEMENT (the "Agreement") is made by and between King County, a political subdivision of the State of Washington and home rule charter county with broad powers to provide public transportation within the County's geographic boundaries, by and through the King County Department of Transportation, Metro Transit Division, (the "County" or "Metro Transit") and [insert name and description of contracting entity; e.g., the City of XXX, a Washington municipal corporation (the "City" and/or "Service Partner")], both of which entities may be referred to hereinafter individually as "Party" or collectively as the "Parties."

WHEREAS, in September, 2006 the King County Council adopted Ordinance 15582, the Transit Now Ordinance, directing the submission of a proposition to King County voters to fix and impose an additional sales and use tax of one-tenth of one percent to fund expansion of the King County Metro public transportation system and a variety of transit service improvements; and

WHEREAS, the Transit Now ordinance identified a number of transit service measures to be implemented using the one-tenth of one percent sales and use tax collected through Transit Now that focus on capital, operating, and maintenance improvements that are expected to expand and improve bus service on local streets and arterials within King County; and

WHEREAS, mutually beneficial contractual arrangements with other public and private entities ("Service Partnerships") that leverage public and private funds to provide both new and better bus service to cities and major employers is one of four key strategies (the "Service Partnership Program") identified in the Transit Now proposition approved by King County voters in the general election on November 7, 2006; and

WHEREAS, the Service Partnerships Program is also designed and intended to support the service development objectives and financial strategies of the 2002-2007 Six-Year Transit Development Plan (or its successor plans); and

WHEREAS, Service Partner has submitted an application for a Speed and Reliability partnership and has met the criteria established by the County for awarding such partnerships; and

WHEREAS, the proposal submitted by Service Partner has been projected to meet or exceed the required performance requirements; and

WHEREAS, the proposal submitted by Service Partner has been approved by the King County Council,

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND AGREEMENTS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED BY BOTH PARTIES, THE PARTIES AGREE AS FOLLOWS:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to enter into a mutually beneficial contractual relationship for enhanced and improved transit services consistent with the goals and directives of the Transit Now ordinance and initiative as authorized by King County Council Ordinance 15582 (approved in September, 2006) and passed by the voters of King County as Transit Now in the general election on November 7, 2006. The

primary goal of Transit Speed and Reliability Partnerships, including this Agreement, is to encourage local jurisdictions to develop, implement and sustain traffic improvements that improve transit speeds by at least ten percent (10%) for routes operating on arterial core service connections, as identified in Metro Transit's 2002-2007 Six-Year Transit Development Plan. In exchange for implementing improvements that are projected to achieve a 10% or greater improvement in transit speed on an eligible core service connection, the Service Partner and Metro will work together to agree on where 5,000 additional annual service hours will be dedicated to benefit Service Partner's jurisdiction, either on a core connection or elsewhere.

This Agreement establishes the responsibilities of both Parties in relation to this transit service partnership, including methods for monitoring, improving and terminating the Service Partnership.

2. COUNTY'S RESPONSIBILITIES

- 2.1 In exchange for Service Partner's investment in certain transit speed and reliability improvements as described with particularity in Attachment A, which is attached hereto and incorporated into this Agreement by this reference, the County will reserve an additional _____ annual service hours of bus service. Service Partner will be eligible to receive these reserved bus service hours when all of the required actions or projects specified in Attachment A have been implemented. Once this service is implemented and continues to perform well, Metro will continue this service as long as the traffic improvements implemented by Service Partner remain in place.

The County will operate the enhanced transit service provided for herein in accordance with its regular procedures. Service Partner understands and agrees that the transit service referenced herein is and will continue to be open to the general public.

- 2.2 The County will include the new transit service enhancements provided for under this Agreement in its annual route performance monitoring. Enhanced transit service provided for via Service Partnerships will be expected to perform at or above the subarea average for its particular type of service in at least three of the four standard indicators monitored in Metro's annual *Route Performance Report*:

- a) Rides per revenue hour;
- b) The ratio of fare revenue to operating expense;
- c) Passenger miles per revenue hour; and
- d) Passenger miles divided by platform miles.

- 2.3 The specific benchmarks applicable to the enhanced transit service provided for herein are set forth in Attachment A. Three (3) years after implementation of the enhanced transit service provided for herein and annually thereafter, the County will make a determination as to the productivity and viability of the service. The County will notify Service Partner of its assessment of the service's productivity, performance, and ongoing viability. If the County deems that changes can be made to improve the service, the County and Service Partner will discuss possible modifications and may agree on any decisions to modify the service enhancements provided for herein; provided, however, that any such modifications shall be consistent with the requirements set forth in KCC 28.94.020(B)(2). After consultation with Service Partner, if the County determines that the enhanced service provided for herein is not viable based upon performance, and proposed changes are insufficient to boost productivity beyond a minimum threshold as may be established and the Parties cannot agree on a substitute investment on a different route or a different corridor, then the County will notify Service Partner of its intention to terminate the Agreement.

- 2.4 The County, in cooperation with Service Partner, will monitor transit performance on core routes that are targeted for speed and reliability improvements, starting with the execution of this Agreement and extending for a minimum of five (5) years after all of the improvements described in Attachment A have been completed. The County will also, for the duration of the Agreement, monitor the improvements completed by Service Partner to ensure they are still in place.

- 2.5 The Parties have made their best faith effort to develop a list of actions and projects that they believe will achieve a ten percent (10%) or greater core route performance improvement. However, if the actual

improvement in transit speed is less than ten percent after implementation, the County will continue to supply the agreed upon service hours as part of the ongoing system as long as the Service Partner maintains the agreed upon physical improvements and makes ongoing traffic operations decisions throughout the core connection, consistent with the intent of Attachment A, and in a manner that maintains the travel time advantage for transit; provided, however, that the County reserves the right to exercise the option of terminating the service pursuant to Section 2 of this Agreement.

3. SERVICE PARTNER'S RESPONSIBILITIES

- 3.1 Service Partner agrees to undertake the set of actions and projects identified with particularity in Attachment A; namely, certain capital projects and/or implementation of traffic operations changes, and has established a completion date of _____ (date.) In any case, all of the actions and projects must be completed no later than five (5) years from the execution of this Agreement. Service Partner will provide official notice to the County in writing when its projects have been completed. The County will then have 30 days to inspect the work and determine if the requirements set forth in Exhibit A have been satisfied.
- 3.2. Once implemented, Service Partner agrees to sustain the agreed upon physical improvements and make ongoing traffic operations decisions throughout the core connection, consistent with the intent of Attachment A, and in a manner that maintains the travel time advantage for transit.
- 3.3 Any substantive modifications or changes to the required activities and improvements set forth in Attachment A, as deemed by either the Service Partner or the County, must be jointly approved in writing in advance by the Parties.

4. TERM OF AGREEMENT

- 4.1 This Agreement shall commence upon signing by both Parties and shall continue unless terminated pursuant to the terms of this Agreement, as provided in Section 8; provided, however, that Service Partner must complete the agreed upon traffic improvements within five (5) years in order to receive the reserved service hours from the County and, provided further, that if such improvements are not satisfactorily completed within five years of the execution date of this Agreement, this Agreement may be terminated by the County.
- 4.2 This Agreement is subject to review and approval by the King County Council.

5. INDEMNIFICATION AND LEGAL RELATIONS

- 5.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.
- 5.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.
- 5.3 Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims

made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

- 5.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.
- 5.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, located in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 5.6 The provisions of this Section shall survive any termination of this Agreement.

6. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by prior written agreement signed by the Parties hereto.

7. TERMINATION OF AGREEMENT

- 7.1 Either Party may terminate this Agreement, in whole or in part, in writing, if the other Party substantially fails to fulfill any or all of its obligations under this Agreement through no fault of the other, including, but not limited to, Service Partner's failure to satisfactorily complete the traffic improvement requirements set forth in Attachment A within five (5) years of the execution date of this Agreement; provided, however, that, insofar as practicable, the Party terminating the Agreement will give notice of its intent to terminate not less than 135 calendar days prior to the County's February, June or September service change, delivered by certified mail, return receipt requested.
- 7.2 Within the first five (5) years of the Agreement and prior to implementation of the service improvements outlined in Attachment A, if the Service Partner determines that it will be unable to implement all of the improvements specified in Attachment A, it will provide written notice of this to the County. The Parties will then have 90 calendar days to attempt to reach agreement upon a set of alternative improvements. If the Parties cannot agree upon an alternative set of improvements, at the end of the 90 day period, the County shall provide Service Partner notice of its intent to terminate. The County will provide such notice in writing by certified mail, return receipt requested.
- 7.3 The County may terminate this Agreement pursuant to the provisions of Section 2.0 of this Agreement, in whole or in part; provided that Service Partner will be given notice of the County's intent to terminate not less than 135 calendar days prior to the County's February, June or September service change, delivered by certified mail, return receipt requested.

8. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature; strikes or labor actions commandeering material, products, or facilities by the federal, state or local government; and/or national fuel shortage, when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event should this provision eliminate the need to make any required payment to the County to the extent any such payment is required pursuant to this Agreement.

9. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by authorized Parties and attached to the original Agreement.

10. ASSIGNMENT

This Agreement shall be binding upon the Parties, their successors and permitted assigns; provided, however, that neither Party shall assign any portion of this Agreement without the other's prior written consent.

11. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

12. MUTUAL NEGOTIATION AND CONSTRUCTION

This Agreement, and each of the terms and provisions hereof, shall be deemed to have been explicitly negotiated between, and mutually drafted by, both Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

13. ALL TERMS AND CONDITIONS

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof and constitutes the entire Agreement between the Parties.

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

14. CONTACT PERSONS

The County and Service Partner shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

	Service Partner
Contact Name	
Title	
Address	
Telephone	
Fax	
E-Mail	

	King County
Contact Name	
Title	
Address	
Telephone	
Fax	
E-Mail	

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the _____ day of _____, 2007.

KING COUNTY

By: _____

Title: _____

Date: _____

SERVICE PARTNER

By: _____

Title: _____

Date: _____

ATTACHMENT A

Speed and Reliability Partnership Scope of Work

A. Transit Speed Improvement Measures to be Undertaken by Service Partner

1. Service Partner agrees to make, at a minimum, the following capital investments and/or traffic operations changes to create a projected transit speed and reliability benefit of ____% along _____ the core connection on _____ between _____ and _____, in support of the eligible core route #_____.

List/describe the improvements in detail with graphics/drawings, as required.

B. Additional Supporting Actions to be Undertaken by Service Partner

1. Service Partner further agrees to implement the following supporting actions:

As described in the evaluation criteria for Speed and Reliability Partnerships, complementary actions can include any or all of the following:

- *Instituting innovative transit signal phasing or timing strategies;*
- *Providing infrastructure, preferably fiber, required to support communication between transit signal priority equipment in the field and from the field back to the Service Partner and to Metro Transit;*
- *Adding curb space for transit terminal or layover;*
- *Establishing parking management to increase the attractiveness of ridesharing;*
- *Implementing pass subsidy and promotional programs to achieve higher ridership;*
- *Taking other actions that improve the pedestrian environment.*

[list/describe the supporting actions the Service Partner has agreed to undertake]

C. Timing for Service Investment

If Service Partner completes the required traffic speed improvement measures set forth in Section A above, by the completion date of ____x date, as outlined in Section 3.1 of this Agreement, the County will program the service described in Section 2.1, to begin with the _____, 20__ service change.

If this completion date is not met, Service Partner must complete the required set of actions no later than five (5) years from the execution of this Agreement in order to retain eligibility for enhanced transit service under this Service Partnership. However, if the original completion date is changed, the time frame for initiating the enhanced transit service will have to be renegotiated with the County once a revised completion date is established.

D. Service Description

This section will include a description of the agreed upon service; the specificity of this description is expected to vary by agreement. The level of detail will be impacted by the amount of time that is projected between executing this Agreement and qualifying for the additional service investment. If the service description must remain fairly general at the time this Agreement is executed, the Parties will be able to ratify a more detailed service understanding through a letter of agreement, as a planned addendum that can be administratively ratified

E. Benchmarks for Evaluating Service Performance

Metro Transit has a consistent, formal route performance evaluation process to identify individual routes that may require modification, expansion or termination. Routes are grouped by sub-area and time period for similarity in operating conditions. Each Service Partnership route will be compared by time period to other routes in its sub-area to ascertain performance level. Data for a particular year is typically available by the middle of the following year. The comparison will be made at the time the data is available.

A group of routes will have both “strong” and “below minimum” performance routes, as defined by thresholds based on the average performance of the group. Routes at the extremes of performance are considered for changes. Routes with “strong performance” are considered for expansion; “below minimum performance” routes are evaluated for changes to improve performance, or for discontinuation if performance does not improve after changes are tried.

The specific benchmarks for service additions applicable to this Agreement will be selected so as to be appropriate for the type of service that is being provided, the sub-area in which it operates, and the time of day it is offered. These will be finalized at the time that the service additions are agreed upon by the Parties.